

LUNENBURG PLANNING BOARD TOWN OF LUNENBURG

Emerick R. Bakaysa, Chair
Joanna L. Bilotta-Simeone, Vice-Chair
Thomas W. Bodkin, Jr., Clk.
Robert J. Saiia, Mbr.
Nathan J. Lockwood, Mbr.
Marion M. Benson, Planning Director



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Minutes
March 8, 2012

Meeting Posted: Yes

Place: Ritter Memorial Building, 960 Massachusetts Avenue, Lunenburg, MA 01462

Time: 6:00 PM

Present: Emerick R. Bakaysa, Joanna L. Bilotta-Simeone, Thomas W. Bodkin Jr., Nathan J. Lockwood, Marion M. Benson

Absent: Robert J. Saiia

SOLAR BYLAW:

Proposed Solar Bylaw reviewed to address Town Counsel's recommended requirements.

Mr. Lockwood referred to Ms. Benson's March 5, 2012 memorandum noting that Town Counsel recommends the Site Plan Review Authority may waive documentary requirements as it deems appropriate. What are documentary requirements? Ms. Benson noted anything in the bylaw that says it has to be documented.

4.15.1. Purpose

No issues

4.15.2. Definitions

Why is there a definition of on-site photovoltaic installations when the solar bylaw makes no reference to them? Why recommended by Town Counsel? Ms. Benson to follow-up. Ms. Bilotta-Simeone- possible example- on top of a municipality building? Ms. Benson received the following information this date- "micro-scaled ground-mounted photovoltaic (PV) installation. A solar system that is structurally mounted on the ground and has name plate capacity under 2 KW". Mr. Bakaysa recommended Purpose be modified for power generation for all, whether home, commercial or industrial.

4.15.3. Small Scale Solar Energy Systems

4.15.3.1. Purpose

No issues

4.15.3.2. Small-Scale Roof-Mounted Solar Energy Equipment

No issues

4.15.3.3. Small-Scale Ground-Mounted Solar Equipment

"25 feet from residential side-yard lines". Specify that this also refers to commercial property.

"Small-scale ground-mounted equipment shall be adequately screened from the neighboring lot line as determined by the Building/Zoning Official". Board felt screening should be same for both small-scale and large-scale. Ms. Benson felt there should be height limit.

Citizen comments:

Concern with screening to cover height.

Could specify height must comply with dimensional regulations.

Mr. Bakaysa response- screening could impede functionality of solar panel.

Board wants height restriction for ground-mounted – already restriction on roof-mounted. Get Town Counsel input on height restrictions. Ten feet?

4.15.3.4. Required Documents

Board requested Building Official's documentation requirements in writing. Require landscape diagram of adequate screening from developers.

4.15.3.5. Permitting

Citizen feels it needs to be noted that in developing the setbacks for solar access, responsibility is on developer.

"Ms. Benson- Change last sentence to read- "All other necessary permits, such as electrical, shall be obtained through the individual inspectors". Board notes needs to be a section in the bylaw for solar systems for hot water only. Get input from Town Counsel.

4.15.3.6. As Built Plans

Specify to both the permitting authority and copied to the Planning Board.

4.15.4. Large Scale Solar Energy Systems

4.15.4.1. Purpose

In first sentence change "Electric" to "photovoltaic" (change to agree with Definitions).

4.15.4.2. Overlay District

Ms. Benson- 680 West Street is changed to 265 Pleasant Street per Assessor's Office.

Affidavit will be received that Lancaster Ave and Leominster-Shirley Rd are proper locations for solar under criteria.

Citizen requested that 651 Chase Road and 265 Pleasant Street be removed from list. They are not suitable sites under the current Bylaw. Does not want Bylaw changed to make them legal after the fact.

Mr. Bakaysa noted the Board works on behalf of the Town and is creating overlay districts. The sites need to be advertised so citizens can see where they are and make their individual comments either at the public hearing or Town Meeting if they want a site removed from the overlay district. The Board will make its recommendation to the Town. How to add a site to the overlay district? 1) everyone that wants to do this has to go through an application and a town meeting or, 2) create an overlay district that encompasses the entire outlying district and establish requirements, e.g., that solar could be on a 20 acre parcel with certain setbacks and requirements. Town Counsel noted the whole Town can be made an overlay district; if not, any time a new developer comes in with a solar farm, it would have to go before town meeting as it would change the sites listed in this Section. Town Counsel suggested that the following could be added: "Any lot in the outlying district, provided however, that large-scale ground-mounted solar photovoltaic installations shall require a minimum of 20 acres". Mr. Bodkin Jr. supports removing the Chase Road and Pleasant Street sites from the Bylaw. He feels it would remove some of the controversy. Mr. Bakaysa noted that the landowners of those two sites could ask they be proposed as part of the overlay district. Check with Town Counsel.

Ms. Bertram feels the two properties should not be included. Just as the point was made that properties can be taken off at town meeting, properties can also be put on at town meeting. If the two projects do not come to fruition, then the two properties are grandfathered. She has an issue with a blanket statement on outlying as the Open Space Plan emphasized the need to keep properties in their environmental habitat.

Mr. Lockwood made Motion to remove No. 1 and No. 2, (Chase Road and Pleasant/West Street) from Section 4.15.4.2., Second, Mr. Bodkin Jr. Discussion ensued. Mr. Bakaysa noted the three remaining sites are quasi-municipal sites; which may make the Town too restrictive. Mr. Lockwood supports an effort to identify non-municipal sites. Ms. Benson feels if the Board identifies private sites, they are infringing on residents' rights as developers will then approach the private resident noting their property has been identified.

Citizen noted the 651 Chase Road and Pleasant/West Street sites have already applied and have by-right. Mr. Lockwood disagreed; they did not have to be included in the new Solar Bylaw. Mr. Bodkin Jr. noted they are grandfathered. Ms. Bilotta-Simeone is concerned that citizens will not realize even though the two sites are removed from the bylaw, the Grandfather Clause will apply. Mr. Bakaysa disagreed with taking the two sites out and feels the citizens should make that decision at town meeting.

Roll Call vote on Mr. Lockwood's Motion to remove No. 1 and No. 2 from the Section- Mr. Bodkin Jr., aye; Ms. Bilotta-Simeone, aye; Mr. Bakaysa, nay; Mr. Lockwood, aye.

Mr. Bodkin Jr. is not comfortable specifying just the outlying district and feels there should be a special permitting process. Mr. Bodkin Jr. will supply information to Ms. Benson to confer with Town Counsel. Mr. Bakaysa recommends applicants bring their proposed sites to the Lunenburg Planning Board, and then a special town meeting will be held to see if the citizens vote to add a specific site to the Overlay District. The Keating property was brought up as a possible site – Ms. Benson noted the 671 Lancaster Avenue site is on Keating property. There is very little Industrial and Commercial zoning in Town for siting and the Town cannot become too restrictive. Mr. Bakaysa suggested adding an Overlay District of Industrial and Commercial. Ms. Benson noted instead of cutting off the small solar and large mounted solar at 250 KW, there are Towns considering the small ones at a lower threshold – enough to put in a yard and count above the 10 KW as a large mounted. This gives better ability for monitoring through Development Plan Review (DPR). Up to 10 KW would be a small-mounted and anything above that would be a large-mounted which would go through a DPR or special permit. Ms. Benson to pursue more details. Mr. Bakaysa feels anyone in the Commercial District who wants to put solar panels on their home will now have to go through another process, which will be more cumbersome for them.

4.15.4.3. Development Plan Review No issues

4.15.4.4. Utility Notification No issues

4.15.4.5. Fees No issues

4.15.4.6. Setbacks Town Counsel recommended definition of Buffer Strips be placed in this Section. Board wants it also put in Definitions. Mr. Bakaysa feels Buffer Strip is defined as being contained within the setbacks. He also feels footage should be ratio-based depending on size of the lot. In first line, change "Residential" Districts to read "Solar Overlay" District. Ms. Benson will ask one of the Town's reviewing engineers to put together some visual diagrams; e.g., on a one-, five-, ten- and twenty- acre lots (working with the current footage in the draft), to get a visual representation for both the Board and the Public Hearing. Board to consider different setbacks for Commercial/Industrial versus Residential. Ms. Benson to insert – during discussion, Board can decide to keep/delete.

4.15.4.7. Visual Impact Change "structure" to read "solar array".

4.15.4.8. Required Documents Subparagraph 5- add the word "phase" between "three" and "line". Include title documents, i.e., property owner, lessor, lessee, address, etc.

4.15.4.9. Site Control Town Counsel recommended adding "Town cannot enter upon private property without owner's consent or court order". Board disagreed.

4.15.4.10. Design Standards a. Lighting No issues

b. Signage No issues

c. Land Clearing No issues

d. Safety, Emergency Service and Environmental Standards

Should yearly verification take place to keep up-to-date on designated person answerable to inquiries? Ms. Benson responded this is done annually in January.

Is change in ownership covered? Both a change in ownership form and yearly verification form will be included in DPR packet.

e. Monitoring and Maintenance

No issue

Ms. Benson noted developers will provide training to police, fire and DPW personnel. Will be included in Directives for future projects.

4.15.4.11. Modifications

Need written-in definition of "material modification" as- "Any modification to an existing plan". Is DPR required for standard repairs, e.g., if a panel goes bad? No, but Building Official must be notified. "Material Modification" may be standard legal language that covers modification to the design. Mr. Bakaysa feels term may be change in technology, e.g., panel sizes, capacity, efficiency change, but still within same footprint.

4.15.4.12. Abandonment and Removal

What are "discontinued operations"? Answer- no longer producing power. Does the Zoning Bylaw specify certain sites that hazardous material has to be taken to? Yes, applicant must notify office. Add office notification of disposal site and route to Section.

It was noted that Section 3.12.2. of State model defines "abandonment" as; "when it fails to operate for more than one year without the written consent of the Site Plan Review Authority". Board chose to be able to order removal within 150 days. How is Board notified when operation stops? Does utility notify Town? Form will be worked on to include with DPR.

4.15.4.13. Financial Surety

Specify Surety Bond by recognized insurer and also maintain liability insurance. If ownership changes, must ensure new owner has same.

Mr. Bakaysa inquired as to how cost is determined to account for cost escalations over time. Wants that cost presented up-front to the Board. Ms. Benson to confer with Town Accountant and Town Counsel. Ms. Benson noted Board does not determine that cost – the developer presents and the Board will have bond reviewed. Copy of bond is filed with Town Accountant.

State Model Section 3.12.3. notes "such surety will not be required for municipally- or state- owned facilities". Change first sentence of 4.15.3.13. to read "The applicant, unless municipal, shall provide surety to cover the cost of removal in the event the Town must remove the installation and remediate the landscapes, in an amount and form determined to be reasonable by the Planning Board".

What about screening, if someone wants to do ground-mounted in front of their house? Board to discuss under setbacks.

Ms. Benson to ask Town Counsel if there is any way to restrict installation to side and rear yards.

ADJOURNMENT: Motion, Mr. Bodkin Jr., Second, Mr. Lockwood, Motion passed. Adjourned 9:10 PM.